

Bereskin & Parr

INTELLECTUAL PROPERTY LAW

Appl. No : 10/799,759 Confirmation No.: 1743
Applicant : Sankar Dasgupta et al./Electovaya, Inc.
Filed : March 15, 2004
Title : COMPOSITE POLYMER ELECTROLYTE FOR A
RECHARGEABLE LITHIUM BATTERY
TC./A.U. : 1745
Examiner : Monique M. Wills

Docket No. : 5088-22
Customer No. : 001059

Honorable Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

January 20, 2008

RESPONSE

Sir:

This is in response to the Office action of November 14, 2008. Applicant is concurrently filing a 2-month extension of time in connection with the above-noted application.

Examiner's restriction requirements is really a restriction between the individual species or compounds listed in claim 9. What this overlooks is the possibility, encompassed at the end of claim 9, of using a mixture of these compounds. A review of the examples in the specification shows that they all list mixtures of these compounds. Practically, Applicant envisages using such mixtures (while not excluding the possibility of a single compound), so that restriction to a single compound does not reflect the most practical form of the invention as presently understood.

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As such, Applicant requests the Examiner accept election of the mixture of the compounds ethylene carbonate and di-methyl-carbonate for examination.

This election is made with traverse, but Applicant maintains that the individual species are patentably distinct. The individual species are so closely related that it is submitted that they could be examined together, and do not present an unusual examination burden, contrary to the Examiner's argument. Additionally, as noted, the invention will likely be practiced with a mixture of these compounds. It is noted that no election/restrictions requirements similar to the one made in the present application was made in the parent application, which had claims of broadly similar format and scope.

As to which claims read on the elected species, it is noted that all the claims retained for examination (except for withdrawn claims 14-24), read on the elected species, except claim 9. Claim 9 lists the individual species identified by the Examiner and additionally mixtures thereof. To the extent that it includes the elected mixture it reads on that elected species.

It is further noted that, should a further reply be required for the withdrawn claims, all of the withdrawn claims are readable on the elected species.

The Examiner is requested to now carry out a full search and examination of the application.

Respectfully submitted,

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